

1 A. W., et al.,  
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34 Plaintiffs,  
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67 v.  
89 SANTA ROSA CITY SCHOOLS, et al.,  
10  
11 Defendants.

Case No. 25-cv-00034-DMR

**ORDER GRANTING THE DISTRICT'S  
MOTION TO DISMISS**

Re: Dkt. No. 4

On September 24, 2024, Plaintiff A.W., by and through his guardian ad litem Sheria Weston (“Weston”), filed a complaint in Sonoma County Superior Court against Defendants Santa Rosa City Schools (the “District”), School Principal Amy Schlueter, and Does 1-20, inclusive, alleging violations of state and federal law, and seeking damages as well as declaratory and injunctive relief. [Docket No. 1 (“Compl.”).] On January 2, 2025, the District removed the case to federal court. [*Id.*] The District moves to dismiss some of A.W.’s claims. [Docket No. 4 (“MTD”).] A.W. opposes [Docket No. 16 (“Opp’n”)], and the District filed a reply [Docket No. 17 (“Reply”)]. This matter is suitable for determination without oral argument. Civ. L.R. 7-1(b). For the reasons discussed below, the District’s motion to dismiss is granted.

**I. BACKGROUND**

A.W. makes the following allegations in the complaint, which the court takes as true for purposes of this motion.<sup>1</sup>

In 2023 and 2024, A.W. was a 7th- and 8th-grade student enrolled at Rincon Valley Middle School in Santa Rosa, California, within the District. [Compl. ¶ 13.] During those years,

<sup>1</sup> When reviewing a motion to dismiss for failure to state a claim, the court must “accept as true all of the factual allegations contained in the complaint.” *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam) (citation omitted).

1 A.W. alleges that he experienced racial harassment with no response from the administration and  
2 was repeatedly punished more than other students for minor disciplinary infractions.<sup>2</sup>

3 Beginning in January 2023, A.W. alleges that another student in his second-period math  
4 class repeatedly called him the “n-word.” [Id. ¶ 16.] The math teacher and other school staff were  
5 aware of the harassment but did not take action to halt it, nor was the student disciplined or  
6 otherwise punished for his conduct, despite the fact that the District has a policy to prohibit  
7 “harassment or bullying” based on race. [Id. ¶¶ 17, 47.] A.W. alleges there are “numerous  
8 incidents” where the District directly violated its own policies regarding discrimination and  
9 harassment based on race. [Id. ¶¶ 18, 35-41 (describing the District’s policies against  
10 discrimination and harassment, and the administrative complaint process).]

11 On January 22, 2023, after being subjected to “constant” racial slurs from the same  
12 student, A.W. alleges that he knocked the student’s hat off his head without making any physical  
13 contact. [Id. ¶ 19.] On January 23, 2023, the student’s friend retaliated against A.W. by punching  
14 A.W. twice in the jaw. [Id. ¶ 20.] A.W. did not respond or retaliate. [Id.] A teacher witnessed  
15 this incident and sent the two boys to the vice principal’s office. [Id. ¶ 21.] Weston was called in  
16 and had a conversation with the vice principal, which “turned into an interrogation of A.W.,” who  
17 was questioned about what he did to create the situation. [Id.] The school responded by removing  
18 A.W. from his class and “forc[ing] him to speak to his aggressors in a ‘restorative circle.’” [Id.  
19 ¶ 22.] The student who assaulted A.W. received a two-day suspension, and the school took no  
20 further steps to ensure A.W.’s safety. [Id.]

21 A week after A.W. was punched, Weston emailed the school to voice her concerns about  
22 A.W.’s safety. [Id. ¶ 24.] In response, the school pulled A.W. from his classes with the offending  
23 student and switched A.W.’s schedule. [Id. ¶ 25.] Weston reached out to the NAACP for help  
24 and voiced her concerns about how Principal Schlueter was handling the situation. [Id. ¶ 26.]

25 On February 22, 2023, Weston met with A.W. and his math teacher “regarding struggles

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28 <sup>2</sup> Although the complaint fails to identify A.W.’s race, the court infers from the allegations that he  
is Black.

1 he had been having with his learning given the abrupt and forced” change to his schedule. [Id.  
2 ¶ 27.] Schlueter interrupted this meeting and began “interrogating” Weston about the complaints  
3 she made to the NAACP. [Id.] A.W. was shocked by Schlueter’s behavior, and Weston was  
4 forced to stop the meeting early because Schlueter “kept trying to change the topic of the  
5 discussion to Title VI violation concerns that Weston had made to the NAACP.” [Id.]

6 Also in February 2023, new Vice Principal Stephen Coyle was called to A.W.’s math class  
7 to remove him for “stacking books on top of each other” with his friends. [Id. ¶ 29.] A.W. was  
8 the only student removed from class based on this incident, even though others were involved.  
9 A.W. was sent to the principal’s office because Coyle believed he had “smoked marijuana” due to  
10 his “laughing during class.” [Id.]

11 On May 18, 2023, A.W. was observed by a teacher “greeting another student” and was  
12 sent to the principal’s office for “exchanging drugs for money” with no actual evidence to support  
13 these claims. [Id. ¶ 31.] A.W. was sent to Ms. Audrey, the guidance counsel and the only Black  
14 staff member at the school, who was forced to search A.W.’s personal belongings to look for  
15 drugs. [Id. ¶ 32.] Audrey did not find evidence of drugs or money. [Id.] When Weston picked  
16 up A.W. that day, Audrey pulled her aside and said she believed “that the school is unfairly  
17 targeting A.W. on the basis of race.” [Id. ¶ 33.] Weston emailed Schlueter to ask why A.W. was  
18 searched with no basis but did not receive a direct response or answer. [Id.]

19 In other examples of discriminatory incidents, A.W. was banned from basketball tryouts  
20 after being “accused of using a vape,” and was put on the “No Roam List,” which prohibited him  
21 from using the restroom without first checking in with the office. [Id. ¶ 34.]

22 A.W. was suspended for a total of ten days in 2023-2024 for minor incidents. [Id. ¶ 42.]  
23 On October 24, 2023, A.W. was suspended for two and a half days for “threatening language  
24 towards a staff member.” [Id. ¶ 43.] On February 16, 2024, A.W. was suspended in school for  
25 one day because he “violated his break as a tool”—that is, he used technology in class, even  
26 though he was permitted to use this technology under his Individualized Education Plan (“IEP”).  
27 [Id. ¶ 46.] The school never informed the Westons about the suspension, and they only became  
28 aware of the incident when A.W. texted them about it. [Id.] On February 20, 2024, A.W. was

1 suspended for two days for “refusing to move away from a window,” because it was “intimidating  
2 another student.” [Id. ¶ 49.] By contrast, students at school who were caught screaming the “n-  
3 word” on a TikTok video were not punished or disciplined. [Id. ¶ 50.] Instead, the school held an  
4 assembly on cyber-bullying led by a White police officer who used the “n-word.” [Id.]

5 At some point, the school forced A.W. to sign a “Behavior Contract” without Weston  
6 present. [Id. ¶ 52.] This was “the same contract discussed with Mrs. Weston previously that  
7 stripped A.W. of his fundamental rights.” [Id.] A.W. felt compelled to sign the contract. [Id.]  
8 Once Weston found out, she immediately emailed the school to have the contract repealed. [Id.  
9 ¶ 53.]

10 On April 11, 2024, the District called the police on A.W. after he approached a student  
11 who had used the “n-word”, and the student responded by calling A.W. the “n-word” and then  
12 “continued to hurl homophobic slurs at A.W.” while being shielded by staff. [Id. ¶¶ 54-55.] The  
13 offending student was not disciplined, despite the school’s policy against use of slurs and racist  
14 behavior. [Id. ¶ 56.] However, according to the school’s report, A.W. was “so persistent and  
15 aggressive” that the school had to call 911 and entered a campus-wide lockdown for 15 minutes.  
16 [Id. ¶¶ 57-58.]

17 A.W. alleges generally that the District has exhibited bias in favor of protecting its White  
18 students. For example, according to U.S. Department of Education statistics in 2017-2018, only  
19 2.2% of all enrolled students were Black while 35.5% of the students were White, yet 7.3% of the  
20 students referred to law enforcement by the District were Black, while 14.9% of the referred  
21 students were White. [Id. ¶ 15.]

## 22 **II. LEGAL STANDARD GOVERNING MOTIONS TO DISMISS**

23 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the legal  
24 sufficiency of the claims alleged in the complaint. *See Parks Sch. of Bus., Inc. v. Symington*, 51  
25 F.3d 1480, 1484 (9th Cir. 1995). When reviewing a motion to dismiss for failure to state a claim,  
26 the court must “accept as true all of the factual allegations contained in the complaint,” *Erickson*,  
27 551 U.S. at 94, and may dismiss a claim “only where there is no cognizable legal theory” or there  
28 is an absence of “sufficient factual matter to state a facially plausible claim to relief,” *Shroyer v.*

1      *New Cingular Wireless Servs., Inc.*, 622 F.3d 1035, 1041 (9th Cir. 2010) (citing *Ashcroft v. Iqbal*,  
2      556 U.S. 662, 677-78 (2009); *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001) (quotation  
3      marks omitted). A claim has facial plausibility when a plaintiff “pleads factual content that allows  
4      the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”  
5      *Iqbal*, 556 U.S. at 678 (citation omitted). In other words, the facts alleged must demonstrate  
6      “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action  
7      will not do.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 554, 555 (2007).

8            Under Federal Rule of Civil Procedure 15(a), leave to amend should be granted as a matter  
9      of course, at least until the defendant files a responsive pleading. Fed. R. Civ. P. 15(a)(1). After  
10     that, Rule 15(a) provides generally that leave to amend the pleadings before trial should be given  
11     “freely . . . when justice so requires.” Fed. R. Civ. P. 15(a)(2). “This policy is to be applied with  
12     extreme liberality.” *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1051 (9th Cir. 2003)  
13     (internal quotation marks and citation omitted). In the absence of an “apparent reason,” such as  
14     undue delay, bad faith or dilatory motive, prejudice to the opposing party, futility of the  
15     amendments, or repeated failure to cure deficiencies in the complaint by prior amendment, it is an  
16     abuse of discretion for a district court to refuse to grant leave to amend a complaint. *Lockheed*  
17     *Martin Corp. v. Network Sols., Inc.*, 194 F.3d 980, 986 (9th Cir. 1999).

### 18            III. DISCUSSION

19            A.W. alleges the following claims: (1) race discrimination in violation of the California  
20     Unruh Civil Rights Act, against Schlueter [Compl. ¶¶ 59-64]; (2) race discrimination in violation  
21     of 42 U.S.C. § 1983 based on Fourteenth Amendment violations, against all Defendants [*id.* ¶¶ 65-  
22     69]; (3) race discrimination in violation of Title VI of the Civil Rights Act of 1964, against all  
23     Defendants [*id.* ¶¶ 70-75]; (4) violation of California Education Code § 220, against all  
24     Defendants [*id.* ¶¶ 76-81]; and (5) negligence, against all Defendants [*id.* ¶¶ 82-88].

25            The District moves to dismiss A.W.’s first (Unruh), second (section 1983), and fourth  
26     (California Education Code section 220) claims. [Mot. at 1-2.]

#### 27            A. Unruh Act

28            A.W. only pleaded his Unruh claim against Schlueter. [See Compl. at 10.] The District

1 nevertheless moves to dismiss this claim, and both parties briefed the issue. [See Mot. at 5-7;  
2 Opp'n at 13-15; Reply at 1-2.] The court analyzes the Unruh claim in light of the parties' briefing  
3 and A.W.'s general request for leave to amend. [Opp'n at 17-18.]

4 The Unruh Act protects “[a]ll persons within the jurisdiction of [California]” from  
5 discrimination based on protected characteristics such as race “in all business establishments of  
6 every kind whatsoever.” Cal. Civ. Code § 51(b). “To state a claim under the Unruh Act, a  
7 plaintiff must allege: ‘(1) she suffered discrimination in a business establishment; (2) her protected  
8 status was a motivating factor; (3) the defendant’s action was the result of its intentional  
9 discrimination against the plaintiff; and (4) the wrongful conduct caused her to suffer injury.’”  
10 *Kelly v. CubeSmart*, No. 22-cv-05470-HSG, 2023 WL 4108187, at \*5 (N.D. Cal. June 21, 2023)  
11 (internal quotation marks and citation omitted). However, “courts have held that public schools  
12 and their employees are not subject to suit under the Unruh Act because a public school district is  
13 not considered a business establishment under the Act.” *L. T. v. Eleanor Murray Fallon Middle*  
14 *Sch.*, No. 24-cv-00110-TSH, 2024 WL 3678014, at \*4 (N.D. Cal. Aug. 5, 2024) (citing *Brennon*  
15 *B. v. Superior Ct.*, 13 Cal. 5th 662, 684 (2022), *reh’g denied* (Aug. 31, 2022)).

16 In *Brennon*, the California Supreme Court analyzed the legislative history of the Unruh  
17 Act, as well as state and federal cases addressing Unruh Act claims against school districts. It held  
18 that a California public school district is “not a ‘business establishment’ for purposes of the  
19 [Unruh] Act when it provide[s] educational services to [a plaintiff].” *Brennon*, 13 Cal. 5th at 684.  
20 The Court explained that certain business attributes—“performing business functions, protecting  
21 economic value, operating as the functional equivalent of a commercial enterprise, etc.”—are “not  
22 shared by public school districts engaged in the work of educating students.” *Id.* at 681. Rather,  
23 “[w]hen acting in their core educational capacity, public school districts do not perform  
24 ‘customary business functions,’ nor is their ‘overall function . . . to protect and enhance . . .  
25 economic value.’” *Id.* (emphasis and alterations in original) (quoting *O’Connor v. Vill. Green*  
26 *Owners Ass’n*, 33 Cal. 3d 790, 796 (1983)); *see also id.* at 684 (“[A] public elementary school,  
27 particularly in its capacity of providing a free education to a’ preschooler with disabilities, is  
28 ‘acting as a public servant rather than a commercial enterprise and is therefore not subject to the

1 Unruh Act.” (quoting *Zuccaro v. Martinez Unified Sch. Dist.*, No. 16-cv-02709-EDL, 2016 WL  
2 10807692, at \*13 (N.D. Cal. Sept. 27, 2016)). Under *Brennon*, it is clear the District cannot be  
3 liable for discrimination under the Unruh Act.

4 A.W. nevertheless argues that the court should apply “public policy factors” to reach the  
5 opposite conclusion, balancing (1) the workability of the precedent, (2) whether the precedent is  
6 well-reasoned, (3) the age of the precedent, and (4) the reliance interest at stake. [Opp’n at 14  
7 (citing *Planned Parenthood v. Casey*, 503 U.S. 833 (1992)).] A.W. maintains that *Brennon*  
8 discussed public policy concerns and “the majority even argues that they do not agree with the  
9 ruling that they ultimately have to make.” [*Id.* (citing *Brennon*, 13 Cal. 5th at 696).] At the page  
10 cited by A.W., the *Brennon* court merely observed it could not assume the role of the Legislature  
11 by reading different statutory text into the Unruh Act. In any event, this court cannot ignore the  
12 California Supreme Court’s interpretation of the Unruh Act to advance A.W.’s public policy  
13 goals. *See, e.g., Armstrong v. Reynolds*, 22 F.4th 1058, 1073 (9th Cir. 2022) (“When interpreting  
14 state statutory language, federal courts are ordinarily bound by the decisions of the given state’s  
15 highest court.” (citation omitted)).

16 Accordingly, A.W. cannot plead an Unruh claim against the District and amendment is  
17 futile.

#### 18       B.     Section 1983

19 The District argues that the section 1983 claim fails for two reasons: first, the District is  
20 not a “person” but an “arm of the state” immune from suit in federal court under the Eleventh  
21 Amendment<sup>3</sup>; alternatively, A.W. does not allege facts sufficient to support that the District  
22 violated the Constitution through its policies or otherwise. [Mot. at 7-12.]

23 “Section 1983 provides a cause of action for the ‘deprivation of any rights, privileges, or  
24 immunities secured by the Constitution and laws’ of the United States.” *Wilder v. Va. Hosp.  
Ass’n*, 496 U.S. 498, 508 (1990) (quoting 42 U.S.C. § 1983). “Section 1983 is not itself a source

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<sup>3</sup> “A sovereign immunity defense is ‘quasi-jurisdictional’ in nature and may be raised in either a  
28 Rule 12(b)(1) or a 12(b)(6) motion.” *Sato v. Orange Cnty. Dep’t of Educ.*, 861 F.3d 923, 927 n.2  
(citing *Pistor v. Garcia*, 791 F.3d 1104, 1111 (9th Cir. 2016)).

1 of substantive rights, but merely provides a method for vindicating federal rights elsewhere  
2 conferred.” *Tatum v. Moody*, 768 F.3d 806, 814 (9th Cir. 2014) (quoting *Hall v. City of L.A.*, 697  
3 F.3d 1059, 1068 (9th Cir. 2012)). To state a claim under section 1983, a plaintiff must allege two  
4 essential elements: (1) that a right secured by the Constitution or laws of the United States was  
5 violated, and (2) that the alleged violation was committed by a person acting under the color of  
6 state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988); *Ketchum v. Alameda County*, 811 F.2d  
7 1243, 1245 (9th Cir. 1987). “[A] State is not a person within the meaning of § 1983.” *Will v.*  
8 *Michigan Dep’t of State Police*, 491 U.S. 58, 64 (1989).

9 “It is well established that agencies of the state are immune under the Eleventh  
10 Amendment from private damages or suits for injunctive relief brought in federal court.” *Sato v.*  
11 *Orange Cnty. Dep’t of Educ.*, 861 F.3d 923, 928 (9th Cir. 2017) (quoting *Savage v. Glendale*  
12 *Union High Sch.*, 343 F.3d 1036, 1040 (9th Cir. 2003)). In California, school districts are state  
13 agencies that are afforded Eleventh Amendment immunity. *See id.* at 926 (“School districts and  
14 [county offices of education] in California remain arms of the state and cannot face suit.”); *L. T.*,  
15 2024 WL 3678014, at \*4 (“[I]t is well settled that school districts in California are ‘arms of  
16 the State’ for Eleventh Amendment purposes and are therefore not ‘persons’ within the meaning  
17 of § 1983.” (quoting *Belanger v. Madera Unified Sch. Dist.*, 963 F.2d 248, 251 (9th Cir. 1992),  
18 and collecting cases)).

19 There are three exceptions to Eleventh Amendment immunity. “First, a state may waive  
20 its Eleventh Amendment defense. Second, Congress may abrogate the States’ sovereign immunity  
21 by acting pursuant to a grant of constitutional authority. Third, under the *Ex parte Young* doctrine,  
22 the Eleventh Amendment does not bar a suit against a state official when the suit seeks prospective  
23 injunctive relief.” *Douglas v. Cal. Dep’t of Youth Auth.*, 271 F.3d 812, 817 (9th Cir. 2001)  
24 (cleaned up). “Waiver and abrogation are second-stage inquiries as to whether, *if* an entity is  
25 immune, that immunity may be overcome.” *Kohn v. State Bar of Cal.*, 87 F.4th 1021, 1031 (9th  
26 Cir. 2023). None of the three exceptions applies here. As to the first two, “[t]he State of  
27 California has not waived its Eleventh Amendment immunity with respect to claims brought under  
28 § 1983 in federal court, and the Supreme Court has held that § 1983 was not intended to abrogate

1 a State's Eleventh Amendment immunity." *Brown v. Cal. Dep't of Corrections*, 554 F.3d 747,  
2 752 (9th Cir. 2009) (quoting *Dittman v. California*, 191 F.3d 1020, 1025-26 (9th Cir.1999)). The  
3 third exception is limited to prospective injunctive relief from continuing or impending state  
4 action which violates the federal constitution or a federal statute, and the state official must have  
5 "some connection with the enforcement of the act." *Confederated Tribes & Bands v. Locke*, 176  
6 F.3d 467, 469 (9th Cir. 1999) (quoting *Ex Parte Young*, 209 U.S. 123, 157 (1908)). The third  
7 exception does not apply as against the District because it is not a state official.

8 A.W. does not engage with the District's Eleventh Amendment immunity arguments nor  
9 does he contend that any of the three exceptions applies.<sup>4</sup> A.W. asserts only that the District "may  
10 fairly be said to be a state actor" because it obtains "significant aid from state officials." [Opp'n at  
11 15 (quoting *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922, 937 (1982)).] A.W. pulls this quote  
12 from *Lugar*'s analysis of the requirement for a section 1983 claim that it be asserted against a  
13 "person" acting under the color of state law: "[T]he party charged with the deprivation [of a  
14 federal right] must be a person who may fairly be said to be a state actor. This may be because he  
15 is a state official, because he has acted together with or has obtained significant aid from state  
16 officials, or because his conduct is otherwise chargeable to the State." 457 U.S. at 937. A.W.'s  
17 attempt to apply *Lugar* by asserting that "the school district receives aid from the State of  
18 California for funding" [Opp'n at 15] wholly lacks merit, as the District is "not [a] 'person[]'"  
19 within the meaning of § 1983." *L. T.*, 2024 WL 3678014, at \*4.

20 The District is an arm of the state for Eleventh Amendment purposes and is entitled to  
21 immunity against A.W.'s section 1983 claim.<sup>5</sup> The section 1983 claim is dismissed with

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23 <sup>4</sup> Ignoring sovereign immunity entirely, A.W. points to two cases in support of his section 1983  
24 arguments. [Opp'n at 15-16.] The cases are plainly inapposite. *Johnson v. Lewis*, 217 F.3d 726  
25 (9th Cir. 2000), concerned class actions brought by prison inmates against prison officials for  
26 Eighth Amendment violations under section 1983; it did not (and did not need to) address  
27 sovereign immunity as against a state agency. In *Jenkins v. Humboldt County*, No. 09-cv-5899-  
PJH, 2010 WL 1267113 (N.D. Cal. Mar. 29, 2010), the court dismissed section 1983 claims  
against the defendant county and various officials for failure to state a claim. The court did not  
address sovereign immunity because the county was the type of government entity typically  
subject to section 1983.

28 <sup>5</sup> The court does not reach the District's alternate argument challenging the sufficiency of the

1 prejudice.

2 **C. California Education Code § 220**

3 The District argues that A.W.'s claim under California Education Code § 220 fails because  
4 A.W. does not allege that he exhausted his administrative remedies and also has not pleaded facts  
5 to support that the District acted with deliberate indifference. [Mot. at 12-15.]

6 Regarding exhaustion of administrative remedies, the District asserts that A.W. has not  
7 alleged that he filed a complaint with the District or that he filed an appeal to the California  
8 Department of Education as required by California Education Code § 262.3(d). [Mot. at 14-15.]<sup>6</sup>  
9 In response, A.W. argues that he is excused from the exhaustion requirement by California  
10 Education Code § 262.3(c). [Opp'n at 17.]

11 Sections 262.3 and 262.4 "provide for enforcement of" California Education Code § 220.  
12 *Donovan*, 167 Cal. App. 4th at 590-91 (footnote omitted). "Although it authorized a private right  
13 of action for a section 220 violation . . . the Legislature also sought to accomplish the policy  
14 objectives underlying the antidiscrimination in education law through administrative enforcement,  
15 to avoid throwing [public] schools into immediate litigation and to give schools an opportunity to  
16 resolve informally as many cases as possible." *Id.* at 607-08 (citation omitted). Thus, Section  
17 262.3(d) provides in full:

18 (d) Notwithstanding any other provision of law, a person who  
19 alleges that he or she is a victim of discrimination may not seek  
20 civil remedies pursuant to this section until at least 60 days have  
21 elapsed from the filing of an appeal to the State Department of  
22 Education pursuant to Chapter 5.1 (commencing with Section  
23 4600) of Division 1 of Title 5 of the California Code of  
Regulations. The moratorium imposed by this subdivision does  
not apply to injunctive relief and is applicable only if the local  
educational agency has appropriately, and in a timely manner,  
apprised the complainant of his or her right to file a complaint.

24 Cal. Educ. Code § 262.3(d). The applicable regulations further provide that: "A complaint of  
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26 pleading because it is moot.

27 <sup>6</sup> The complaint alleges only that A.W. "complied with the requirements for claims presentation  
28 under the Government Claims Act, California Government Code §810 et seq." [Compl. ¶ 9.]

1 discrimination must be filed with the local educational agency ‘not later than six months from the  
2 date the alleged discrimination occurred, or the date the complainant first obtained knowledge of  
3 the facts of the alleged discrimination.’” *Donovan*, 167 Cal. App. 4th at 604 (quoting Cal. Code  
4 Regs. tit. 5, § 4630(b)).<sup>7</sup> A “complaint” “means a written and signed statement alleging a  
5 violation of federal or state laws or regulations, which may include an allegation of unlawful  
6 discrimination, harassment, intimidation or bullying.” Cal. Code Regs. tit. 5, § 4600. “With  
7 certain exceptions, within 60 days from the date of the receipt of the complaint the local agency  
8 shall ‘conduct and complete an investigation’ of the complaint, and prepare a written ‘agency  
9 decision.’” *Donovan*, 167 Cal. App. 4th at 604 (quoting Cal. Code Regs. tit. 5, § 4631(a)).  
10 “[T]hese administrative procedures provide a means for the parties to resolve promptly and  
11 efficiently complaints of prohibited discrimination before resorting to litigation, thus ensuring our  
12 state’s education resources are not unnecessarily diverted.” *Id.* at 608 n.20 (citing Cal. Educ.  
13 Code §§ 200, 201).

14 Section 262.3(c) states: “Nothing in this chapter shall be construed to require an  
15 exhaustion of the administrative complaint process before civil law remedies may be pursued.”  
16 Cal. Educ. Code § 262.3(c). As one court has observed, “there is some tension between  
17 subsections (c) and (d) of § 262.3 inasmuch as the former explicitly eschews exhaustion of  
18 administrative remedies as a prerequisite to judicial remedies and the latter explicitly requires  
19 parties to pursue administrative remedies[.]” *Annamaria M. v. Napa Valley Unified Sch. Dist.*,  
20 No. 03-cv-0101-VRW, 2006 WL 1525733, at \*11 (N.D. Cal. May 30, 2006). However, “this  
21 ambiguity is reconcilable: Although parties need not exhaust the administrative complaint process,  
22 they must at least pursue administrative remedies to the point of having filed an appeal with the  
23 California Department of Education and waiting 60 days.” *Id.*; *see also id.* at \*12 (concluding that  
24 plaintiff had “not pursued her administrative remedies to the point required by § 262.3(d)” and that  
25 the court accordingly lacked subject matter jurisdiction over her section 220 claim). The court  
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28 <sup>7</sup> A “local educational agency” means a county office of education, school district, state special  
school, or charter school.” Cal. Educ. Code § 234.6.

1 also observed that section 262.4, which codifies the right to a private enforcement action under  
2 section 220,<sup>8</sup> “must be read with the limitations detailed in § 262.3 . . . .” *Id.*; *see also Donovan*,  
3 167 Cal. App. 4th at 591.

4 The court agrees with *Annamaria*’s statutory interpretation that section 262.3(c) does not  
5 excuse the administrative exhaustion requirements of section 262.3(d), and A.W. offers no legal  
6 authority or argument to the contrary. A.W. has not alleged that he exhausted his administrative  
7 remedies by filing a complaint with the local educational agency, followed by an appeal with the  
8 California Department of Education. *See Annamaria*, 2006 WL 1525733, at \*11; *cf. R.N. v.*  
9 *Travis Unified Sch. Dist.*, No. 20-cv-00562-KJM-JDP, 2020 WL 7227561, at \*11-12 (E.D. Cal.  
10 Dec. 8, 2020) (finding that plaintiffs failed to exhaust their administrative remedies under section  
11 220 where they alleged that they filed a complaint with the local educational agency but did not  
12 allege they filed an appeal to the California Department of Education). A.W.’s section 220 claim  
13 is accordingly dismissed with leave to amend, should he be able to allege exhaustion of his  
14 administrative remedies.

15 **IV. CONCLUSION**

16 For the foregoing reasons, the District’s motion to dismiss is granted. A.W. may file an  
17 amended complaint consistent with this order by **May 6, 2025**.

18 **IT IS SO ORDERED.**

19 Dated: April 22, 2025

20   
21 Donna M. Ryu  
22 Chief Magistrate Judge

23  
24  
25  
26  
27  
28 <sup>8</sup> Section 262.4 reads, in full: “This chapter may be enforced through a civil action.”